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7 Former Counsel for Debtor,
8 Hawaiian Riverbend, LLC

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:

Hawaiian Riverbend, LLC,

Debtor.

CASE NO.: 22-bk-50314

Chapter 11

**FIRST AND FINAL APPLICATION
FOR COMPENSATION AND
REIMBURSEMENT OF EXPENSES
OF MICHAEL JAY BERGER;
DECLARATION OF MICHAEL JAY
BERGER IN SUPPORT THEREOF**

Date: October 18, 2022
Time: 1:30 p.m.
Place: United States Courthouse,
Courtroom 11
Via Tele/Videoconference,
www.canb.uscourts.gov/calendars
280 South First Street
San Jose, CA 95113-3099

Judge: Hon. M. Stephen L. Johnson

TO THE HONORABLE STEPHEN L. JOHNSON, JUDGE OF THE
UNITED STATES BANKRUPTCY COURT, TO THE UNITED STATES
TRUSTEE AND TO ALL INTERESTED PARTIES:

///

1 The Law Offices of Michael Jay Berger (“Applicant”) hereby applies to this Court
2 (the “Application”) for an order allowing and approving compensation for legal services
3 rendered and reimbursement for expenses incurred as general bankruptcy counsel for
4 Hawaiian Riverbend, LLC (the “Debtor”), debtor herein, during the period of April 15,
5 2022 through June 8, 2022 (the “Application Period”). Filed concurrently herewith is the
6 Declaration of Michael Jay Berger (the “Berger Declaration”) in support of the
7 Application.

8 The Applicant has reviewed and the following information is supplied in
9 conformity with United States Bankruptcy Court, Northern District of California, and the
10 guidelines of the Office of the United States Trustee (“OUST”).

11 I. **SUMMARY OF APPLICATION**

- 12 1. Applicant: Law Offices of Michael Jay Berger.
- 13 2. Type of Service Rendered: General Bankruptcy Counsel.
- 14 3. Date of Filing Chapter 11: April 14, 2022.
- 15 4. Date of Entry of Order Approving Applicant’s Employment: Pending Approval.
- 16 5. Date of Filing of Last Application for Compensation and/or Reimbursement of
17 Expenses: None.
- 18 6. Total Fees Allowed or Paid to Applicant to Date (including Retainers and Prior
19 Approved Fee Application): \$1,721.50 pre-petition fees and \$1,738.00 Chapter 11
20 filing fee.

21 (i) **Prepetition Fees and Costs**

- 22 a. Applicant’s actual pre-petition fees and costs incurred were deemed fully
23 earned as of the filing of the petition and we withdrawn from the
24 Application’s client trust account immediately prior to the filing of the
25 Debtor’ bankruptcy petition as payment for the pre-petition work done by
26 Applicant. Applicant’s actual pre-petition fees were \$1,721.50. Applicant’s
27 actual pre-petition costs were the \$1,738.00 Chapter 11 filing fee.

1 Applicant's prepetition fees and costs were disclosed in Applicant's
2 Employment Application filed on May 10, 2022 [Case Dkts # 24, 25 and
3 26]. The Order granting Applicant's Employment Application has not yet
4 been entered¹. The unearned retainer of \$18,278.50 has been maintained in
5 Applicant's Client Trust account until court authorization is obtained
6 pursuant to 11 U.S.C. § 330.

7 (ii) **Chapter 11 Retainer**

- 8 a. **Retainer Received:** \$20,000. Applicant received a total retainer of
9 \$20,000.00. On April 14, 2022, Applicant was paid the \$20,000.00 retainer
10 plus the \$1,738.00 Chapter 11 filing fee; \$10,000 was paid by Michael H.
11 Miroyan, the Debtor's principal, and the remaining \$10,000 retainer plus
12 the filing fee of \$1,738.00 was paid by Harold Barker. Neither Mr. Miroyan
13 nor Mr. Barker are creditors of the Debtor and made these payments as gift
14 contributions to the Debtor, for which no repayment will be sought.
15
16 b. **Retainer Remaining:** \$18,278.50. Pursuant to the written fee agreement
17 between Applicant and the Debtor, as approved by this Court, the sum of
18 Applicant's actual pre-petition fees of \$1,721.50 and Applicant's actual
19 pre-petition costs of \$1,738.00 Chapter 11 filing fee were earned by
20 Applicant prior to Applicant's representation in the Debtor's bankruptcy
21 case.
22
23 c. **Total Requested in Prior Applications:** None.
24
25
26 d. **Total Paid Pursuant to Prior Applications:** None.

27
28 ¹ On June 7, 2022, the Court held a hearing on Applicant's Employment Application. The
case docket indicates the matter is taken under submission. On June 3, 2022, Applicant
lodged a proposed order and has been following up with the Court, but the Order has not
yet been entered by this Court.

- 1 e. Total Amount Currently Due but Unpaid Pursuant to Prior Approved
2 Applications: None.
3 f. Total Amount Allowed but Reserved Pending Final Fee Application:
4 None.
5 7. Summary of Requested Fees in this Application: See chart in Section VI, *infra*.
6 8. The hourly rates set forth in Exhibit "7" for Applicant's various professionals who
7 recorded time during the Application Period are the same rates charged by such
8 professionals for non-bankruptcy services.
9 9. Bonus requested: Not applicable.
10 10. Total Post-Petition Fees Requested in Application: \$24,175.50.
11 11. Total Expenses Allowed or Paid to Applicant to Date (including Retainers and
12 Prior Approved Fee Applications): \$1,738.00 for the Chapter 11 filing fee.
13 12. Summary of Requested Expense Reimbursement: See Exhibit "8" hereto.
14 13. Total Post-Petition Expenses Requested in this Application: \$314.39.
15 14. Total Award of Fees and Expenses Requested: \$24,489.89.

16 **II. INTRODUCTION AND BACKGROUND**

17 Hawaiian Riverbend, LLC debtor (the "Debtor") filed its petition under Chapter
18 11 of the Bankruptcy Code on April 14, 2022 (the "Petition Date").

19 Debtor filed this Chapter 11 bankruptcy case in order to stop a foreclosure on its
20 real property located in Wai Koloa Village, HI.

21 **III. SIGNIFICANT EVENTS DURING THE APPLICATION PERIOD**

22 During the Application Period, Applicant filed Debtor's schedules and spent the
23 necessary time preparing the 7-day package for the OUST, represented the Debtor at the
24 Initial Debtor Interview, and the initial status hearing, as well as prepared the Motion to
25 Employ Applicant as General Bankruptcy Counsel.

26 On April 14, 2022, Applicant filed a voluntary chapter 11 petition on behalf of the
27 Debtor. Post-petition services commenced on April 15, 2022.

1 On April 28, 2022, Applicant filed Debtor's Schedules and Statement of Financial
2 Affairs [docket no.: 22].

3 On May 10, 2022, Applicant filed Debtor's Application to Employ Michael Jay
4 Berger as General Bankruptcy Counsel ("Employment Application") [docket nos.: 24, 25
5 and 26]. On May 18, 2022, Creditor Kenneth Y. Kai, and Tae K. Kai of the Kai Family
6 1998 Trust filed an Opposition to the Employment Application [docket no. 34]. On May
7 31, 2021, Debtor's counsel filed a Reply to the Kai Family 1998 Trust Opposition to the
8 Employment Application [docket no.: 41]. On May 31, 2022, the United States Trustee
9 filed an Objection to the Employment Application [docket no.: 42]. On June 1, 2022,
10 Debtor's counsel filed his Reply to the United States Trustee's Objection to the
11 Employment Application [docket no.: 43].

12 On May 10, 2022, Applicant filed his Motion to Withdraw as Attorney [docket
13 no.: 28].

14 On May 27, 2022, Applicant filed Debtor's Amended Voluntary Petition [docket
15 no.: 38] and Amended Schedule E/F [docket no.: 39].

16 On June 2, 2022, the Court entered its Order to Show Cause regarding Dismissal
17 of the case [docket no.: 46].

18 On June 3, 2022, Applicant filed Debtor's Application for Order Approving
19 Designation of Michael Miroyan as Responsible Individual Pursuant to Bankruptcy Local
20 Rule 4002-1 [docket no.: 47].

21 On June 6, 2022, Applicant filed Debtor's Response to Order to Show Cause Re
22 Dismissal; Declaration of Michael Jay Berger in Support Thereof [docket no.: 53].

23 On June 8, 2022, the Court entered its Order Granting Debtor's Counsel's Motion
24 To Withdraw [docket no.: 57].

25 **IV. RETENTION OF APPLICANT**

26 The Debtor selected Applicant because of Applicant's extensive experience and
27 knowledge in the field of bankruptcy. Debtor selected Applicant because he is a certified

1 bankruptcy specialist and because of his reputation and track record for confirming
2 chapter 11 plans of reorganization.

Prior to the Petition Date, the Debtor retained Applicant to prepare the petition and to advise the Debtor on preparations for commencing this chapter 11 case. The terms of Applicant's retention provide that it will be compensated for its services on the basis of hourly billings, subject to Court approval. There is no agreement or understanding between Applicant and any other person for the sharing of compensation or other proceeds for the services rendered in this case.

9 Applicant received a total retainer of \$20,000.00. On April 14, 2022, Applicant
10 was paid the \$20,000.00 retainer plus the \$1,738.00 Chapter 11 filing fee; \$10,000 was
11 paid by Michael H. Miroyan, the Debtor's principal, and the remaining \$10,000 retainer
12 plus the filing fee of \$1,738.00 was paid by Harold Barker. Neither Mr. Miroyan nor Mr.
13 Barker are creditors of the Debtor and made these payments as gift contributions to the
14 Debtor, for which no repayment will be sought. Pursuant to the written fee agreement
15 between Applicant and the Debtor, the sum of Applicant's actual pre-petition fees of
16 \$1,721.50 and Applicant's actual pre-petition costs of \$1,738.00 Chapter 11 filing fee
17 were earned by Applicant prior to Applicant's representation in the Debtor's bankruptcy
18 case. The unearned retained of \$18,278.50 has been maintained in Applicant's Client
19 Trust account.

With this Application, Applicant requests allowance and payment of fees in the amount of \$24,175.50 consisting of 55.5 total hours of which 51.0 hours are billed time and 4.5 hours are unbilled time. Applicant also requests allowance and payment of \$314.39 for costs and expenses incurred over the Application Period. This time is reflected in the total hours set forth in Section VI, below.

1 Pursuant to the Bankruptcy Local Rules, a brief narrative of the present posture of
2 this case is contained herein. A detailed listing of all time spent by attorneys and
3 paraprofessionals is set forth in Exhibits "1" through "6" to the Berger Declaration
4 pursuant to Bankruptcy Local Rules. Exhibits "1" through "6" show the date the services
5 were rendered, the nature of the services rendered, who rendered the services, the time
6 required for the performance of such services, and the fee associated with each service
7 rendered. All services performed by Applicant professionals were recorded in time
8 increments of one-tenth (0.1) of an hour. All services performed by Applicant paralegals,
9 legal assistants and professional staff were professional in nature and if not performed by
10 the paraprofessionals, would have been performed by attorneys. Attached to the Berger
11 Declaration as Exhibit "7" is a summary of all of the attorneys and paraprofessionals who
12 devoted time on this case during the Application Period, along with their billing rates,
13 total hours expended and total fees billed.
14

15 All expenses, which include all out-of-pocket expenses incurred by Applicant for
16 all matters on behalf of the Debtor during the Application Period, organized by category
17 of expense, are contained in Exhibit "8" to the Berger Declaration, pursuant to LBR
18 2016-1(a)(1)(F). Applicant has made every effort to limit the expenses and to use the
19 most economically-efficient means available for accomplishing the tasks for which
20 expenses were incurred. Expenses for court costs, outside copy costs, computerized legal
21 research, express delivery, travel, and courier services are billed at actual costs.
22 Applicant does not bill for long-distance telephone calls. Photocopies are generally made
23 in-house and the charges are billed at \$.10 per page. The charges reflect a reasonable
24 estimate of the per page cost to the Applicant of in-house copying, and do not include any
25 charge for the time and labor associated with making such copies. The use of email has
26 been significant in this case, which has greatly reduced the cost of facsimile and long
27 distance telephone use. Courier, overnight and facsimile services were necessary when
28 regular mail would not be adequate to complete the task in a timely manner.

1 **VI. MAJOR ACTIVITY CATEGORIES SUMMARY AND DESCRIPTION OF**
2 **SERVICES RENDERED DURING THE APPLICATION PERIOD**

3 Pursuant to the Guidelines of the OUST, Applicant has segregated its time and
4 expenses into the following categories:

Matter Name and Number	# of Hours Worked	Amount of Fees
Business Operations	1.5	\$397.50
Case Administration	38.1	\$16,356.50
Claims Administration and Objections	1.0	\$471.00
Fee/Employment Applications	10.9	\$4,900.50
Meeting of Creditors	3.4	\$1,693.00
Relief from Stay	0.6	\$357.00
TOTAL HOURS	55.5	
TOTAL HOURS NOT BILLED	4.5	
TOTAL HOURS BILLED	51.0	\$24,489.89

14 Set out below is a narrative explanation, pursuant to Federal Rule of Bankruptcy
15 Procedure 2016(a) and Local Bankruptcy Rule 2016-1, of the services performed by
16 Applicant during the Application Period. No narrative is provided for those matters
17 where no fees were incurred during the Application Period.

18 A. Business Operations

19 **Hours Worked: 1.5 Fees: \$397.50**

20 Applicant recorded time for advising Debtor regarding various tax, land use and
21 insurance issues.

23 B. Case Administration

24 **Hours Worked: 38.1 Fees: \$16,356.50**

25 Applicant recorded time under this category for services related to the general
26 administration of the Debtor's case. Applicant worked closely with the Debtor to file and
27 prepare the Schedules of Assets and Liabilities and Statement of Financial Affairs in
28 accordance with the applicable Federal and Local Rules, as well as responding to requests

1 from the OUST and preparing the Debtor's 7-day package. Applicant assisted the Debtor
2 with opening the Debtor-in-Possession accounts. This category also includes time
3 expended by Applicant for Chapter 11 Initial Reporting Requirements, or performing
4 analysis for issues which cut across multiple time categories. Applicant also recorded
5 time under this category to respond to the Court's Order to Show Cause and Applicant's
6 Motion to Withdraw as General Bankruptcy Counsel.

7 C. Claims Administration and Objections

8 **Hours Worked:** 1.0 **Fees:** \$471.00

9 Applicant recorded time under this category for reviewing proofs of claim.

10 D. Fee/Employment Applications

11 **Hours Worked:** 10.9 **Fees:** \$4,900.50

12 Applicant recorded time under this category for services related to the preparation
13 of the Applicant's Application to be employed as General Bankruptcy Counsel, preparing
14 responses to the Objections of the U.S. Trustee and Creditor Kai Family 1998 Trust, and
15 preparing supplemental declarations regarding the source of payment of the retainer to
16 Applicant.

17 E. Meeting of Creditors

18 **Hours Worked:** 3.4 **Fees:** \$1,693.00

19 Applicant recorded time under this category for services related to Debtor's
20 Meeting of Creditors.

21 F. Relief from Stay

22 **Hours Worked:** 0.6 **Fees:** \$357.00

23 Applicant recorded time under this category for services related to violation of the
24 automatic stay re Moon case.

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1 **VII. FACTORS RELEVANT IN DETERMINING THE ALLOWANCE OF**
2 **FEES**

3 **A. Legal Standard**

4 Bankruptcy Code Section 330 authorizes compensation for professionals rendering
5 services in connection with a bankruptcy case. The responsibility for determining
6 reasonable compensation under Section 330 for services rendered to the estate rests with
7 the bankruptcy court and the court's decision is final unless there is an abuse of
8 discretion. *In re Nucorp Energy, Inc.*, 764 F.2d 655, 657 (9th Cir. 1985). Bankruptcy
9 Code Section 330 requires that the compensation awarded be "for actual, necessary
10 services" taking into account the time spent on such services, the rates charged, and the
11 value of the services rendered. 11 U.S.C. §330(a)(1)(3).

12 Prior to the enactment of the Bankruptcy Code, the Ninth Circuit followed the
13 judicially created "strict rule of economy" doctrine. *See In re THC Financial Corp.*, 659
14 F.2d 951, 955 n.2 (9th Cir. 1981), *cert. denied*, 456 U.S. 977 (1982). Bankruptcy Code
15 Section 330 was enacted to overrule this doctrine, and to ensure adequate compensation
16 for bankruptcy attorneys so that qualified specialists would not be forced to abandon the
17 practice of bankruptcy law in favor of more remunerative areas. *In re Nucorp Energy,*
18 *Inc.*, *supra*, 764 F.2d at 658; *In re Powerline Oil Co.*, 71 B.R. 767, 770 (9th Cir. BAP
19 1986).

20 In the case of *In re Yermakov*, 718 F.2d 1465 (9th Cir. 1983), the Ninth Circuit
21 discussed the test to be used to calculate a reasonable attorney fee beyond the factors
22 listed in Bankruptcy code Section 330. The Court stated that, "the primary method used
23 to determine a reasonable attorney fee in a bankruptcy case is to multiply the number of
24 hours expended by an hourly rate." *Id.* at 1471. This method has been referred to as the
25 "lodestar" or basic fee test, which, if warranted, can be adjusted upward or downward. In
26 that regard, the Ninth Circuit in *Yermakov* made specific reference to *Johnson v. Georgia*
27 *Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974), where the Court of Appeals
28 *Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974), where the Court of Appeals

1 for the Firth Circuit listed twelve factors that should be considered in awarding attorneys' 2 fees. These so-called "Johnson factors" have been referred to and utilized by many 3 courts throughout the country in determining and awarding fees in bankruptcy cases. 4 See, e.g., *Powerline Oil Co.*, *supra*, 71 B.R. at 771, and cases cited therein. These factors 5 include, among others: the time and labor required; the novelty and difficulty of the 6 questions involved; the skill required to perform the legal services properly; the 7 preclusion of other employment by the attorney due to acceptance of the case; the 8 customary fee; whether the fee is fixed or contingent; the amount involved, and the 9 results obtained; the experience, reputation and the ability of the attorneys; the 10 undesirability of the case; and awards in similar cases.
11

12 The Ninth Circuit Bankruptcy Appellate Panel has concluded that the "loadstar" 13 approach coupled with consideration of the "Johnson factors" is the appropriate standard 14 to be applied in determining and awarding professional fees in a bankruptcy case.
15 *Powerline Oil Co.*, *supra*, 71 B.R. at 771; *see also In re Mednet*, 251 B.R. 103, 108 (9th Cir. BAP 2000). In this Application, Applicant is not seeking any upward adjustment in 16 the "loadstar" approach to its request for compensation. The requested fees are the 17 product of the number of hours expended by Applicant's professionals in representing the 18 interests of the Debtor multiplied by their respective hourly rates.
19

20 B. Application of the Lodestar and Applicable Johnson Factors

21 1. *Time Spent*

22 Applicant's time records, copies of which are attached to the Berger Declaration 23 as Exhibits "1" through "6", demonstrate that during the Application Period, Applicant 24 spent a total of 51.0 billed hours and 4.5 unbilled hours representing the Debtor.
25 Applicant submits that his time records demonstrate that all of the time spent was 26 reasonable and necessary for the adequate representation of the Debtor in connection with 27 the matters for which Applicant was employed.
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2. *Customary Fee for Comparable Services*

1 Bankruptcy Code Section 330 requires that the bankruptcy court award fees in
2 bankruptcy cases based upon the costs of similar services rendered in non-bankruptcy
3 cases. This requirement is a departure from prior law governing the allowance of
4 compensation. The drafters of the Bankruptcy Code abandoned the notions of
5 conservation of the estate and economy of administration which were pivotal concepts in
6 assessing compensation under the prior Bankruptcy Act. Rather, Congress attempted to
7 attract bankruptcy law specialists to make the adjudication of bankruptcy cases more
8 efficient. This change “was based on the fundamental economic principle that the
9 payment of arbitrarily lower rates to lawyers in bankruptcy proceedings compared to
10 market-established rates for non-bankruptcy legal service would cause attorneys to leave
11 bankruptcy practice or to refrain from entering bankruptcy practice. An inherent risk in
12 this system... is that creditors would have to absorb the costs of improper and inefficient
13 administration.” 3 COLLIER ON BANKRUPTCY, 330.04[6][a] at 330-59 (Alan N.
14 Resnick and Henry J. Sommer, eds., 15th ed. Rev. 2008).
15

16 The Applicant’s summary of services rendered, attached hereto as Exhibit “7”
17 pursuant to Local Bankruptcy Rule 2016-1 (a)(1)(G), depicts the hourly rates charged by
18 the Applicant’s professionals, as well as the actual time spent by each professional for the
19 services provided in this case. The Applicant submits that these rates are identical to the
20 rates the Applicant charges its non-bankruptcy clients.

21 3. *The Experience, Reputation and Ability of the Attorneys Involved*

22 The qualifications of the attorneys and paraprofessionals performing services on
23 behalf of the Debtor are set forth in Exhibits “9” and “10”, attached to the Berger
24 Declaration. The Applicant believes that each of the persons listed on Exhibits “9” and
25 “10” are highly qualified to perform the services rendered on the Debtor’s behalf and
26 have billing rates commensurate with similarly qualified attorneys and paraprofessionals.
27 The Applicant submits that it has a well-earned reputation for providing high quality
28 legal services in each of legal arenas in which it practices. As noted on Exhibit “9”,

1 Michael Jay Berger is a Certified Legal Specialist in Bankruptcy Law and is an "AV"
2 rated lawyer as rated by Martindale Hubbell, and has maintained this rating continuously
3 for the past 27 years.

4 C. The Applicant Should be Compensated for All of its Fees

5 Pursuant to Section 330 of the Bankruptcy Code, the Court may award to a
6 professional person, reasonable compensation for actual, necessary services rendered, and
7 reimbursement for actual, necessary expenses incurred. 11 U.S.C. §330(a). As set forth
8 above, the fees that the Applicant requests compensation and the expenses for which the
9 Applicant requests reimbursement are for actual and necessary services rendered and
10 expenses incurred.

11 The Applicant submits that full compensation of fees and reimbursement of
12 expenses requested in this Application pursuant to Bankruptcy Code Section 330 is
13 appropriate. Authorizing full payment is also consistent with the priority scheme of the
14 Bankruptcy Code, which contemplates administrative claims having priority over general
15 unsecured claims. Thus, the Applicant respectfully requests that the Court approve the
16 payment of compensation as requested in full.

17 Further, Bankruptcy Code Section 331 was enacted to allow professionals to be
18 compensated, on an interim basis, throughout the pendency of the case. Bankruptcy
19 Code Section 331 provides in relevant part as follows:

20 ...any professional person...may apply to the court no more than once every 120
21 days after an order for relief under a case under this title, or more often if the court
22 permits, for such compensation for services rendered before the date of such an
23 application or reimbursement for expenses incurred before such date as is provided
24 under Section 330 of this title. After notice and a hearing, the court may allow and
disburse to such applicant such compensation and reimbursement.

25 11 U.S.C. §331. As enacted, the Bankruptcy Code expresses a strong legislative
26 preference that attorneys should be awarded full compensation. Congress drafted Section
27 331 to allow a Debtor's attorneys to receive compensation during the case, instead of
28 being required to wait until the end of the case, which in some instances might be years

1 away. H.R. Rep. No. 95-595, 95th Cong., 1st Session. 330 (1997). Authorizing full
2 payment is also consistent with the priority scheme of the Bankruptcy Code which
3 contemplates administrative claims having priority over general unsecured claims. The
4 Applicant submits that interim compensation pursuant to Bankruptcy Code Section 331 is
5 appropriate.

6 In view of the strongly expressed legislative intent and the priority requirement of
7 the Bankruptcy Code, the Applicant respectfully requests that the Court approve the
8 payment of compensation as requested in full on a final basis.

9 **VIII. SOURCES OF PAYMENT OF ALLOWED FEES AND EXPENSES**

10 Applicant received a total retainer of \$20,000.00. The sum of Applicant's actual
11 pre-petition fees of \$1,721.50 and Applicant's actual pre-petition costs of \$1,738.00. The
12 unearned retained of \$18,278.50 has been maintained in Applicant's Client Trust account.
13 Applicant's current outstanding fees are \$24,175.50 and costs are \$314.39, which total
14 \$24,489.89. Applicant seeks to draw down on the retainer currently being held in
15 Applicant's Client Trust Account.

16 **IX. CONCLUSION**

17 WHEREFORE, Applicant requests this Court enter an order as follows:

18 1. Approving the Application of Applicant and awarding on a first and final
19 basis, compensation of fees of \$24,175.50, and reimbursement of costs of \$324.29, for a
20 total of \$24,489.89;

21 2. Immediately upon entry of this order, Applicant is authorized to draw down
22 on the remaining retainer being held by Applicant in his Client Trust Account in the
23 amount of \$18,278.50;

24 3. Applicant will waive the remaining \$6,211.39 owed by Debtor; and

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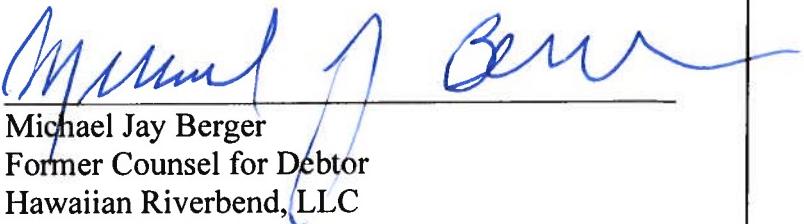
1 4. Granting such other and further relief as is just and proper.

2 Dated:

3 8/25/2022

4 LAW OFFICES OF MICHAEL JAY BERGER

5 By:

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7 Michael Jay Berger
8 Former Counsel for Debtor
9 Hawaiian Riverbend, LLC

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FIRST AND FINAL APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES OF
MICHAEL JAY BERGER; DECLARATION OF MICHAEL JAY BERGER IN SUPPORT THEREOF

DECLARATION OF MICHAEL JAY BERGER

I, Michael Jay Berger, declare and state as follows:

1. I am an Attorney at Law, licensed to practice before all of the courts in the State of California, and in the United States District Court for the Northern District of California. I have personal knowledge of the facts set forth below and if called to testify as to those facts, I could and would competently do so.

2. This declaration is provided in support of the Applicant's first interim application for allowance of compensation and reimbursement of expenses filed concurrently with this declaration (the "Application").

3. I have reviewed the Application and the information is supplied in conformity with United States Bankruptcy Court, Northern District of California, and the guidelines of the Office of the United States Trustee (“OUST”).

4. The First and Final Application for Compensation and Reimbursement of Expenses (“Application”) submitted by myself (the “Applicant”) is for the period of April 15, 2022 through June 8, 2022 (the “Application Period”).

5. By way of the Application, the Applicant seeks an order of the Court granting interim approval and allowance of compensation totaling \$24,175.50 and expense reimbursement totaling \$314.39, for a total award of fees and expenses totaling \$24,489.89, and granting any further relief as deemed just and proper.

6. Debtors' case was filed on April 14, 2022.

7. Applicant received a total retainer of \$20,000.00. On April 14, 2022, Applicant was paid the \$20,000.00 retainer plus the \$1,738.00 Chapter 11 filing fee;

1 \$10,000 was paid by Michael H. Miroyan, the Debtor's principal, and the remaining
2 \$10,000 retainer plus the filing fee of \$1,738.00 was paid by Harold Barker. Neither Mr.
3 Miroyan nor Mr. Barker are creditors of the Debtor and made these payments as gift
4 contributions to the Debtor, for which no repayment will be sought.
5

6 8. Pursuant to the written fee agreement between Applicant and the Debtor,
7 the sum of Applicant's actual pre-petition fees of \$1,721.50 and Applicant's actual pre-
8 petition costs of \$1,738.00 Chapter 11 filing fee were earned by Applicant prior to
9 Applicant's representation in the Debtor's bankruptcy case. The remaining prepetition
10 retainer is \$18,278.50.

11 9. Applicant's actual pre-petition fees and costs incurred were deemed fully
12 earned as of the filing of the petition and we withdrawn from the Application's client
13 trust account immediately prior to the filing of the Debtors' bankruptcy petition as
14 payment for the pre-petition work done by Applicant. Applicant's actual pre-petition fees
15 were \$1,721.50. Applicant's actual pre-petition costs were the \$1,738.00 Chapter 11
16 filing fee. Applicant's prepetition fees and costs were disclosed in Applicant's
17 Employment Application filed on May 10, 2022 [Case Dkts # 24, 25 and 26], which is
18 still pending before this Court. The unearned retainer of \$18,278.50 has been maintained
19 in Applicant's Client Trust account until court authorization is obtained pursuant to 11
20 U.S.C. § 330.
21
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23 **SIGNIFICANT EVENTS DURING THE APPLICATION PERIOD**

24 10. During the Application Period, Applicant filed Debtor's schedules and
25 spent the necessary time preparing the 7-day package for the OUST, represented the
26

1 Debtors at the Initial Debtor Interview, and the initial status hearing, as well as prepared
2 the Motion to Employ Applicant as General Bankruptcy Counsel.

3 11. On April 14, 2022, Applicant filed a voluntary chapter 11 petition on behalf
4 of the Debtor. Post-petition services commenced on April 15, 2022.
5

6 12. On April 28, 2022, Applicant filed Debtor's Schedules and Statement of
7 Financial Affairs [docket no.: 22].
8

9 13. On May 10, 2022, Applicant filed Debtor's Application to Employ Michael
10 Jay Berger as General Bankruptcy Counsel ("Employment Application") [docket nos.:
11 24, 25 and 26]. On May 18, 2022, Creditor Kenneth Y. Kai, and Tae K. Kai of the Kai
12 Family 1998 Trust filed an Opposition to the Employment Application [docket no. 34].
13 On May 31, 2021, Debtor's counsel filed a Reply to the Kai Family 1998 Trust
14 Opposition to the Employment Application [docket no.: 41]. On May 31, 2022, the
15 United States Trustee filed an Objection to the Employment Application [docket no.: 42].
16 On June 1, 2022, Debtor's counsel filed his Reply to the United States Trustee's
17 Objection to the Employment Application [docket no.: 43].
18

19 14. On May 10, 2022, Applicant filed his Motion to Withdraw as Attorney
20 [docket no.: 28].
21

22 15. On May 27, 2022, Applicant filed Debtor's Amended Voluntary Petition
23 [docket no.: 38] and Amended Schedule E/F [docket no.: 39].
24

25 16. On June 2, 2022, the Court entered its Order to Show Cause regarding
26 Dismissal of the case [docket no.: 46].
27

17. On June 3, 2022, Applicant filed Debtor's Application for Order Approving Designation of Michael Miroyan as Responsible Individual Pursuant to Bankruptcy Local Rule 4002-1 [docket no.: 47].

18. On June 6, 2022, Applicant filed Debtor's Response to Order to Show Cause Re Dismissal; Declaration of Michael Jay Berger in Support Thereof [docket no.: 53].

9 19. On June 8, 2022, the Court entered its Order Granting Debtor's Counsel's
10 Motion To Withdraw [docket no.: 57].

RETENTION OF APPLICANT

20. The Debtors selected Applicant because of Applicant's extensive experience and knowledge in the field of bankruptcy. Debtors' selected Applicant because he is a certified bankruptcy specialist and because of his reputation and track record for confirming chapter 11 plans of reorganization.

21. Prior to the Petition Date, the Debtors retained Applicant to prepare the petition and to advise the Debtors on preparations for commencing this chapter 11 case. The terms of Applicant's retention provide that it will be compensated for its services on the basis of hourly billings, subject to Court approval. There is no agreement or understanding between Applicant and any other person for the sharing of compensation or other proceeds for the services rendered in this case.

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**REQUEST FOR APPROVAL AND PAYMENT OF ALL FEES AND EXPENSES
FOR THE APPLICATION PERIOD**

22. With this Application, Applicant requests allowance and payment of fees in the amount of \$24,175.50 consisting of 55.5 total hours of which 51.0 hours are billed time and 4.5 hours are unbilled time. Applicant also requests allowance and payment of \$314.39 for costs and expenses incurred over the Application Period.

23. A detailed listing of all time spent by attorneys and paraprofessionals is set forth in **Exhibits “1” through “6.”** **Exhibits “1” through “6”** show the date the services were rendered, the nature of the services rendered, who rendered the services, the time required for the performance of such services, and the fee associated with each service rendered. All services performed by Applicant professionals were recorded in time increments of one-tenth (0.1) of an hour. All services performed by Applicant paralegals, legal assistants and professional staff were professional in nature and if not performed by the paraprofessionals, would have been performed by attorneys. **Exhibit “7”** is a summary of all of the attorneys and paraprofessionals who devoted time on this case during the Application Period, along with their billing rates, total hours expended and total fees billed.

24. All expenses, which include all out-of-pocket expenses incurred by Applicant for all matters on behalf of the Debtors during the Application Period, organized by category of expense, are contained in **Exhibit “8.”** Applicant has made every effort to limit the expenses and to use the most economically-efficient means available for accomplishing the tasks for which expenses were incurred. Expenses for

1 court costs, outside copy costs, computerized legal research, express delivery, travel, and
2 courier services are billed at actual costs. Applicant does not bill for long-distance
3 telephone calls. Photocopies are generally made in-house and the charges are billed at
4 \$.10 per page. The charges reflect a reasonable estimate of the per page cost to the
5 Applicant of in-house copying, and do not include any charge for the time and labor
6 associated with making such copies. The use of email has been significant in this case,
7 which has greatly reduced the cost of facsimile and long distance telephone use. Courier,
8 overnight and facsimile services were necessary when regular mail would not be
9 adequate to complete the task in a timely manner.

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13 **MAJOR ACTIVITY CATEGORIES SUMMARY AND DESCRIPTION OF**

14 **SERVICES RENDERED DURING THE APPLICATION PERIOD**

15 25. Pursuant to the Guidelines of the OUST, Applicant has segregated its time
16 and expenses into the following categories:

Matter Name and Number	# of Hours Worked	Amount of Fees
Business Operations	1.5	\$397.50
Case Administration	38.1	\$16,356.50
Claims Administration and Objections	1.0	\$471.00
Fee/Employment Applications	10.9	\$4,900.50
Meeting of Creditors	3.4	\$1,693.00
Relief from Stay	0.6	\$357.00
TOTAL HOURS	55.5	
TOTAL HOURS NOT BILLED	4.5	
TOTAL HOURS BILLED	51.0	\$24,489.89

26 26. Set out below is a narrative explanation of the services performed by
27 Applicant during the Application Period. No narrative is provided for those matters
28 where no fees were incurred during the Application Period.

1 A. Business Operations

2 **Hours Worked:** 1.5

3 **Fees:** \$397.50

4 **Blended Rate:** \$265.00

5 Applicant recorded time for advising Debtor regarding various tax, land use and
6 insurance issues. A true and correct copy of the timeslip records of this category are
7 attached hereto as Exhibit “1.”

8 B. Case Administration

9 **Hours Worked:** 38.1

10 **Fees:** \$16,356.50

11 **Blended Rate:** \$429.31

12 Applicant recorded time under this category for services related to the general
13 administration of the Debtor’s case. Applicant worked closely with the Debtor to file and
14 prepare the bankruptcy Schedules of Assets and Liabilities and Statement of Financial
15 Affairs in accordance with the applicable Federal and Local Rules, as well as responding
16 to requests from the OUST and preparing the Debtor’s 7-day package. Applicant assisted
17 the Debtor with opening the Debtor-in-Possession accounts. This category also includes
18 time expended by Applicant for Chapter 11 Initial Reporting Requirements, or
19 performing analysis for issues which cut across multiple time categories. Applicant also
20 recorded time under this category to respond to the Court’s Order to Show Cause and
21 Applicant’s Motion to Withdraw as General Bankruptcy Counsel. A true and correct
22 copy of the timeslip records of this category are attached hereto as Exhibit “2.”

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1 C. Claims Administration and Objections

2 **Hours Worked:** 1.0

3 **Fees:** \$471.00

4 **Blended Rate:** \$471.00

5 Applicant recorded time under this category for reviewing proofs of claim. A true
6 and correct copy of the timeslip records of this category are attached hereto as Exhibit
7 “3.”

8 D. Fee/Employment Applications

9 **Hours Worked:** 10.9

10 **Fees:** \$4,900.50

11 **Blended Rate:** \$449.59

12 Applicant recorded time under this category for services related to the preparation
13 of the Applicant’s Application to be employed as General Bankruptcy Counsel, preparing
14 responses to the Objections of the U.S. Trustee and Creditor Kai Family 1998 Trust, and
15 preparing supplemental declarations regarding the source of payment of the retainer to
16 Applicant. A true and correct copy of the timeslip records of this category are attached
17 hereto as Exhibit “4.”

18 E. Meeting of Creditors

19 **Hours Worked:** 3.4

20 **Fees:** \$1,693.00

21 **Blended Rate:** \$497.95

22 Applicant recorded time under this category for services related to Debtor’s
23 Meeting of Creditors. A true and correct copy of the timeslip records of this category are
24 attached hereto as Exhibit “5.”

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1 F. Relief from Stay

2 **Hours Worked:** 0.6

3 **Fees:** \$357.00

4 **Blended Rate:** \$595.00

5 Applicant recorded time under this category for services related to violation of the
6 automatic stay re Moon case. A true and correct copy of the timeslip records of this
7 category are attached hereto as Exhibit "6."

9 27. In view of the time expenses, the responsibilities assumed, and the
10 reputation and skill of the Applicant's attorneys, I submit that the foregoing represents
11 the reasonable value of the services rendered on behalf of the Debtors. I believe that the
12 services rendered were necessary, and that the attorney's fees requested constitute
13 reasonable and necessary fees.

15 28. The Application was prepared at my direction and under my supervision
16 and is the Applicant's first application for compensation in the case. Upon a review of the
17 Application, I find that it accurately reflects the work performed by the Applicant during
18 the Application Period and substantively conforms with the United States Trustee's
19 guidelines (the "Trustee's Guidelines") for compensation and expense reimbursement for
20 professionals and the United States Bankruptcy Court for the Northern District of
21 California's Guidelines for Compensation and Expense Reimbursement of Professionals
22 and Trustees (the "Northern District Guidelines") (collectively referred to as the
23 "Guidelines").

1 29. I was retained by the Debtor on April 14, 2022, and on May 10, 2022, I
2 filed my Motion to Withdraw as Attorney as a result of a breakdown of the attorney client
3 relationship. As such, no monthly statements were provided to the Debtor since the
4 representation was for a period less than one month.
5

6 30. Neither I, nor any member of the Applicant, have any agreement or
7 understanding of any kind or nature to divide, pay over or share any portion of the fees to
8 be awarded to the Applicant with any other person, attorneys or entity, except as among
9 the members of the Applicant. The Applicant has strived to provide legal services to
10 Debtors in the most cost-efficient method, while maintaining the high quality of service
11 expected from and provided by the Applicant professionals. The Applicant believes the
12 billing rates for its professionals are reasonable and commensurate with the rates charged
13 by similarly-qualified professionals providing similar services. I am a Certified Legal
14 Specialist in Bankruptcy Law and am an "AV" rated lawyer as rated by Martindale
15 Hubbell, and have maintained this rating continuously for the past 27 years.
16
17

18 31. **Exhibits "1" through "6",** and incorporated herein by this reference, which
19 provide detailed listings of all time spent by attorneys and paraprofessionals showing the
20 date the services were rendered, the nature of the services rendered, who rendered the
21 services, the time required for the performance of such services, and the fee associated
22 with each service rendered, segregated according to the Guidelines. All services
23 performed by Applicant professionals were recorded in time increments of one-tenth
24 (0.1) of an hour. All services performed by Applicant paralegals, legal assistants and
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1 professional staff were professional in nature and if not performed by the
2 paraprofessionals, would have been performed by attorneys.

3 32. All expense reimbursements requested in the Application have been billed
4 at the rates in accordance with practices no less favorable than those customarily
5 employed by the Applicant and generally accepted by Applicant's clients. A true and
6 correct copy of the Expenses are attached hereto in **Exhibit "8"**, and incorporated herein
7 by this reference, which provides a listing of all expenses for all matters on behalf of the
8 Debtors during the Application Period, organized by category of expense.
9

10 33. I have complied with the Guidelines in **Exhibit "7"**, and incorporated
11 herein by this reference, which provides a summary of all of the attorneys and
12 paraprofessionals who devoted time on this case during the Application Period, along
13 with their billing rates, total hours expended and total fees billed.
14

15 34. I have complied with Guidelines by providing as **Exhibits "9"** and **"10"** to
16 this Application, my resume and the firm CV detailing the qualifications of the attorneys
17 and paralegals whom have rendered services on the Debtors' behalf, incorporated herein
18 by this reference. I believe that each of the persons listed in **Exhibits "9"** and **"10"** are
19 highly qualified to perform the services rendered on the Debtors' behalf and have billing
20 rates commensurate with similarly qualified attorneys and paraprofessionals.
21

22 35. Attached hereto as **Exhibit "11"** is the Notice of this Application served in
23 accordance with the Guidelines.
24

25 36. Attached hereto as **Exhibit "12"** is the Cover Letter to the Debtor, served
26 in accordance with Guidelines.
27

37. Applicant has funds from the retainer to satisfy part of the fees.

38. I agree to waive the remaining \$6,211.39 outstanding attorneys fees.

39. Due to the breakdown of the relationship between the debtor and myself, I

have not included a declaration from the Debtor in support of my Application herein.

I declare under penalty of perjury that the foregoing is true and correct and
that this declaration is executed on August 25, 2022, at Beverly Hills,
California.

Michael Jay Berger


Michael Jay Berger

EXHIBIT 1

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
<u>Business Operations</u>				
4/15/2022	MJB	Review email from the client re the value of the debtor's land, review the attached vacant land broker's price opinion comparison pages(.1); Review another email from the debtor re the value of the property and the equity in the property with lot layout attached (.1)	0.20 595.00/hr	119.00
4/16/2022	MJB	Review Order for Payment of State and Federal Taxes	0.10 595.00/hr	59.50
4/21/2022	MJB	Review email from Yathida N re insurance for the debtor's property, telephone conference with Yathida N re same	0.10 595.00/hr	59.50
5/6/2022	KM	Telephone communications with FTB regarding when the LLC was formed, EIN number, address of the principal and the payment status with FTB	0.40 250.00/hr	100.00
5/11/2022	MJB	Review email from the client re insurance coverage for the property, review the attached insurance policy information	0.10 595.00/hr	59.50
5/31/2022	YN	Prepare the proof of service for the Reply to the Objection to M. Berger's Employment Application (0.1) and assemble for filing (0.1)	0.20 250.00/hr	NO CHARGE
6/7/2022	KM	Multiple calls with the court regarding the hearing for 4 different matters	0.40 250.00/hr	NO CHARGE
SUBTOTAL:			[1.50]	397.50]

	<u>Hours</u>	<u>Amount</u>
For professional services rendered	1.50	\$397.50

EXHIBIT 2

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
Case Administration				
4/18/2022	KM	Getting all documents from Northern District's OUST for 7 Day and email it to the client requesting cooperation in compliance	0.50 250.00/hr	125.00
	SD	Review the Notice Setting Status Conference with important deadlines and calendar them all (0.2); review Notice of Meeting of Creditors and calendar the date and email client (0.1); review notice of deficient schedules and calendar the deadline (0.1); review the compliance requirement for 1116 and email client requesting the items from the list (0.1)	0.50 545.00/hr	272.50
4/19/2022	SD	Review Michael Berger's email re the EIN number and ask Karine to prepare an addendum to voluntary petition	0.10 545.00/hr	54.50
	SD	Review the Order to Show Cause re Conversion or Dismissal (0.1); email a copy to client with instructions and deadline for response (0.1); prepare Statement Pursuant to 11 USC 1116 (1)(B) (0.2); review the notice of appointment of Sub V Trustee (0.1)	0.50 545.00/hr	272.50
	MJB	Telephone call from Liza Dunning of the IRS re the Hawaiian Riverbend Case, wrong EIN used on the debtor's bankruptcy petition, prepare email to the client re same (.1)	0.10 595.00/hr	59.50
	MJB	Conference With Sofya D Re How To Respond To The Court's OSC Re Dismissal (.1); Review Email From UST Paralegal Specialist Katina Umpierre Re The Initial Debtor Interview And The Initial Reporting Requirements And Documents Requests, Calendar The Dates Set Forth Therein (.1) Prepare Email To The Client Re Same And Telephone Conference With Sofya D Re Same (.1); Review The Attachments To The Initial Debtor Interview Email Including The	0.70 595.00/hr	416.50

			<u>Hrs/Rate</u>	<u>Amount</u>
		IDILetter, The Attorney Authorization For Direct Contact, Region 17 -- United States Trustee Chapter 11 Initial Reporting Requirements And Document Requests, United States Trustee Chapter 11 Operating And Reporting Guidelines For Debtors In Possession, Authorized Depository List For The Northern District Of California, And Notice Regarding The United States Trustee Program's New Chapter 11 Periodic Reports (.3) ; Review email from the client re his efforts to open a DIP account @ Bank of America (.1)		
4/20/2022	MJB	Review emails from Sofya D and the client re client's questions about the pending Chapter 11 case.	0.20 595.00/hr	119.00
	MJB	Review and reply to 2 emails from the debtor re an alleged violation of the stay in a related case and a promissory note secured by a deed of trust on the debtor's property	0.20 595.00/hr	119.00
	YN	Call client re 1116 Statement and outstanding items	0.20 250.00/hr	50.00
	MJB	Conference with Karine M re the tax id issue for the debtor	0.10 595.00/hr	59.50
	MJB	Review Notice of Appointment of Subchapter V Trustee	0.10 595.00/hr	59.50
	MJB	Review Order to Show Cause re Dismissal or Conversion for Small Business Debtor's Failure to File Required Documents, be sure that he hearing date and response due date are on calendar	0.10 595.00/hr	59.50
	MJB	Review Notice of Related Bankruptcy Case filed by Creditor Gang Chen	0.10 595.00/hr	59.50
	MJB	Review 2 emails from the debtor re a prior related bankruptcy case and a Motion to Lift the Automatic Stay in a prior related case	0.20 595.00/hr	119.00
	MJB	Review and reply to email from the debtor re his prior emails to me (.1) ; Telephone call from the client re background facts of the case, how the debtor acquired its property, the promissory note (.3)	0.40 595.00/hr	238.00
4/21/2022	KM	Telephone communication with IRS regarding the EIN number used	0.30 250.00/hr	75.00
	KM	Telephone call with the client regarding signature on 7 day package	0.30 250.00/hr	75.00
	YN	Prepare the Certificate of Service for the 1116 Statement and for Judge's copy	0.30 250.00/hr	NO CHARGE
	MJB	Review Notice of Related Cases	0.10 595.00/hr	59.50

			<u>Hrs/Rate</u>	<u>Amount</u>
4/21/2022	YN	Review file and prepare email to client re outstanding compliance	0.40 250.00/hr	100.00
	YN	Continue working with client re compliance	0.50 250.00/hr	125.00
	YN	Telephone call with client re compliance requirements	0.70 250.00/hr	175.00
4/22/2022	MJB	Conference with Karine M re her problems getting the information that we need from the client for UST Compliance and bankruptcy schedules	0.10 595.00/hr	59.50
	MJB	Review email from Michael M re property of the debtor	0.10 595.00/hr	59.50
4/23/2022	KM	Review Order Discharging Order to Show Cause	0.10 250.00/hr	25.00
4/24/2022	SD	Send an email to Yathida Nipha re the to-do items for this case tomorrow	0.10 545.00/hr	54.50
	SD	Review the Notice of Related Cases filed by secured creditor	0.10 545.00/hr	54.50
4/25/2022	YN	Call court re instructions on certified petition	0.30 250.00/hr	NO CHARGE
4/26/2022	YN	Send email to client re outstanding items for the remaining schedules	0.10 250.00/hr	25.00
	MJB	Review email from Michael Miroyan re the relationship between this case, his personal Ch 13 case and an ongoing appeal	0.20 595.00/hr	119.00
4/27/2022	YN	Call and email client again re deficiencies	0.20 250.00/hr	50.00
	YN	Continued telephone call with client re deficiencies	0.30 250.00/hr	75.00
	MJB	Review Amended Notice of Chapter 11 Case (.1)	0.10 595.00/hr	59.50
4/28/2022	YN	Assemble and file the deficiencies schedules	0.40 250.00/hr	NO CHARGE
	YN	Email client re deficiencies due today	0.10 250.00/hr	25.00
	YN	Call with client attempting to extract information for the bankruptcy schedules	0.20 250.00/hr	50.00

			<u>Hrs/Rate</u>	<u>Amount</u>
4/28/2022	RP	Contact client for signature pages for petition and schedules	0.10 435.00/hr	43.50
	RP	Assist Y. Nipha in assembling petition and schedules	0.30 435.00/hr	130.50
	SD	Discuss the deficiencies due today with Yathida (0.1); send an email to client re deficiencies due today (0.1)	0.20 545.00/hr	109.00
	SD	Review the schedules that Karine Manvelian prepared with Miroyan (0.3); discuss Miroyan's behavior and noncooperation with Michael Berger (0.1)	0.40 545.00/hr	218.00
	MJB	Review and reply to email from the client re working with my staff to gather the information that we need to prepare schedules for the debtor	0.10 595.00/hr	59.50
	MJB	Telephone conference with the client re schedules that are due today (.1) ; Conferences with Sofya D and Yathida N re same (.1) Exchange texts with the client re debtor's bankruptcy schedules (.1) Review email from the client re debtor's bankruptcy schedules (.1)	0.40 595.00/hr	238.00
4/29/2022	MJB	Review Notice of Related Cases filed by Counsel for Secured Creditor Gang Chen	0.10 595.00/hr	59.50
	SD	Review the evidence of insurance for submission to US Trustee's office	0.10 545.00/hr	54.50
	MJB	Telephone call from the client re his bankruptcy schedules	0.10 595.00/hr	59.50
5/1/2022	MJB	Review email from the client re resolution of UST compliance issues	0.10 595.00/hr	59.50
5/2/2022	MJB	Telephone call from client Michael Miroyan and Ryan Smith re prior bankruptcy, transfer of properties to Michael Miroyan, the company's unsecured creditors, preparing him for the initial debtor interview, meeting of creditors, status conference, client's alleged claims against his mortgage holders, February 2016 lawsuit filed in Hawaii that is now on appeal, alleged violations of the automatic stay in other bankruptcy cases	0.80 595.00/hr	476.00
	YN	Telephone call with client re 7 day package	0.40 250.00/hr	100.00
	MJB	Review email from Sofya D re issues with debtor's draft March MOR	0.10 595.00/hr	59.50
5/3/2022	YN	Continue to review documents and prepare the Compliance and call and email client re same	1.20 250.00/hr	300.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/3/2022	SD	Review email from Yathida Nipha with the list of outstanding compliance items (.1); discuss the compliance with Yathida Nipha (.1); review the compliance and provide my comments to Yathida (.2)	0.40 545.00/hr	218.00
	MJB	Conference with Sofya D re the Initial Debtor Interview	0.10 595.00/hr	59.50
5/4/2022	YN	Email client re outstanding compliance items	0.10 250.00/hr	25.00
	MJB	Review and reply to emails from Nychele Rivera, Bankruptcy Analyst with the office of the UST re rescheduling the Initial Debtor Interview (.1) ; Prepare email to our client re same (.1)	0.20 595.00/hr	119.00
	MJB	Review and reply to email from client re the Initial Debtor interview	0.20 595.00/hr	119.00
5/5/2022	MJB	Review and reply to email from client re the initial debtor interview (.1) Review and reply to 2 follow up emails from the client re same (.1)	0.20 595.00/hr	119.00
5/9/2022	MJB	Review and reply to email from UST Trial Attorney Elvina Rafael re UST Compliance issues, scheduling a time tomorrow to discuss (.1); Review reply email from Elvina re same (.1)	0.20 595.00/hr	119.00
	CA	Draft Motion to Withdraw as attorney, review local rules and notice requirements.	0.70 435.00/hr	NO CHARGE
	SD	Prepare a Motion to Withdraw as Debtor's Counsel	0.20 545.00/hr	NO CHARGE
	MJB	Review and approve draft Motion to Withdraw as Counsel	0.10 595.00/hr	NO CHARGE
	YN	Continue to review client's documents for OUST compliance and submit	0.40 250.00/hr	100.00
	SD	Send client an email to get dates to try to reschedule the Initial Debtor Interview	0.10 545.00/hr	54.50
	MJB	Review and sign the Authorization for Direct Contact between my client and the UST	0.10 595.00/hr	59.50
	MJB	Telephone conference with Sofya D re debtor's initial debtor interview, client cooperation issues	0.10 595.00/hr	59.50
	MJB	Review email from UST Bankruptcy Analyst Nychele Rivera re the remaining IDI documents, prepare email to Sofya D and to the client re same	0.10 595.00/hr	59.50
5/10/2022	YN	Prepare the Notice of Hearing for the Motion to Withdraw and the Certificate of Service	0.30 250.00/hr	NO CHARGE

			Hrs/Rate	Amount
5/10/2022	MJB	Telephone call to UST Trial Attorney Elvina Rofael re UST Compliance issues, scheduling the IDI, our difficulties communicating with Michael Miroyan, the principal of our client	0.10 595.00/hr	59.50
	MJB	Review debtor's six month projection of income and expenses (.1); Review and reply to email from UST Bankruptcy Analyst Nychelle Rivera re the Initial Debtor Interview set for tomorrow (.1) ; Prepare email to the client re same (.1)	0.30 595.00/hr	178.50
5/11/2022	MJB	Review 2 emails from Court Clerk Anna Lee re the Notice of Hearing on my Motion to Withdraw as Counsel	0.10 595.00/hr	NO CHARGE
	MJB	Review and reply to email from UST Bankruptcy Analyst Nychelle Rivera re UST compliance documents needs, April MOR (.1) ; Prepare email to the client, Sofya and Yathida re same (.1)	0.20 595.00/hr	119.00
	MJB	Review and reply to 2 emails from the client re the initial debtor interview (.2) ; Represent the debtor at the Initial Debtor Interview (.7)	0.90 595.00/hr	535.50
5/13/2022	MJB	Review email from the client re UST compliance items	0.10 595.00/hr	59.50
	MJB	Review email from the client re problems opening a DIP account with AXOS Bank and re the continued meeting of creditors	0.10 595.00/hr	59.50
	YN	Review client's email re DIP accounts	0.20 250.00/hr	50.00
5/16/2022	YN	Respond to client's email re 90 days bank statement	0.10 250.00/hr	25.00
	YN	Review the prepetition bank statements and email client re other accounts	0.40 250.00/hr	100.00
	MJB	Review email exchange between Michael Miroyan and MaryAnn McIntyre of AXOS Bank re debtor opening a DIP account there	0.10 595.00/hr	59.50
	MJB	Review email from he client re adding creditors to the debtor's bankruptcy schedules, review the attached excel spreadsheet (.1) ; Reply to said email (.1) ; Review 2 reply emails from the client re creditors and re setting up a meeting to discuss same (.1)	0.30 595.00/hr	178.50
5/17/2022	YN	Review emails from client re creditors list	0.20 250.00/hr	50.00
	YN	Call with client re creditors listed on the schedules and pass call to M. Berger	0.30 250.00/hr	75.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/17/2022	MJB	Review email from Gina Klump re debtor's tax ID issue, telephone conference with debtor re same, in person conferences with Yathida N and Sofya D re same (.1) ; Prepare reply email to Gina Klumpt re same (.1)	0.20 595.00/hr	119.00
	MJB	Telephone conference with the client re what happened at the meeting of creditors, amending debtor's bankruptcy schedules,	0.20 595.00/hr	119.00
	MJB	Telephone call from UST Trial Attorney Elvina Rofael re the application to employ MJB as General Bankruptcy Counsel re debtor's eligibility to be a Sub V debtor (.1) Legal research re debtor's eligibility to be a SubV debtor / single asset real estate issue .(1); Telephone conference with Elvina Rofael re same (.1)	0.30 595.00/hr	178.50
	YN	Prepare amended schedules	0.40 250.00/hr	100.00
	MJB	Prepare follow up email to the client re information that I need about each creditor to prepare the proposed amended schedules for the debtor (.1) Review and reply to email from the client re amended schedules and amending the Ch 11 petition (.2)	0.30 595.00/hr	178.50
5/18/2022	YN	Organize the Status Report for filing and prepare the Certificate of Service	0.30 250.00/hr	NO CHARGE
	MJB	Review email from client re debtor's bankruptcy schedules (.1) ; Review and reply to email from Sofya D re debtor's initial status report (.1)	0.20 595.00/hr	119.00
	SD	Prepare Debtor's Initial Status Report with supporting declaration	1.40 545.00/hr	763.00
	MJB	Review and revise draft Debtor's Initial Status Conference Report, Declaration of MJB in Support Thereof (.2) ; Exchange texts with Sofya D re same (.1)	0.30 595.00/hr	178.50
5/19/2022	YN	Review client's email re threat	0.10 250.00/hr	NO CHARGE
5/23/2022	MJB	Review and reply to email from the client re I still need addresses for the creditors that the debtor wants me to add, client's false accusations against me	0.20 595.00/hr	119.00
5/24/2022	YN	Send follow up email re amendments that needs to be filed	0.10 250.00/hr	25.00
5/25/2022	MJB	Review 4 emails from the debtor re unsecured creditors	0.10 595.00/hr	59.50
5/26/2022	MJB	Telephone call from client re the draft amended petition , telephone conference with Yathida N re same	0.10 595.00/hr	59.50

			<u>Hrs/Rate</u>	<u>Amount</u>
5/27/2022	YN	Amend schedules to add creditors to Schedules E/F	0.70 250.00/hr	175.00
	MJB	Review and reply to 2 emails from the client re what each debt is for and whether or not any of the debts are disputed, telephone conference with Yathida N re same	0.10 595.00/hr	59.50
	MJB	Prepare email to the client re additional information that we need for each unsecured creditor	0.10 595.00/hr	59.50
	MJB	Review email from the debtor re its draft, amended voluntary, conference with Yathida N re same, review and approve same and the Notice of Amendment to Affected Parties for filing (.1) Review email from the client re unsecured creditors (.1)	0.20 595.00/hr	119.00
5/30/2022	MJB	Review and reply to email from the client re the upcoming status conference, the MORs, the client's problems with AXOS Bank, and our communications with each other	0.40 595.00/hr	238.00
6/1/2022	SB	Telephone call with Michael Berger regarding tomorrow's Status Conference	0.10 395.00/hr	39.50
	MJB	Telephone conference with Sofya D to prepare for tomorrow's Status Conference	0.10 595.00/hr	59.50
	MJB	Review email from Court Clerk Anna Lee with Zoom appearance information for tomorrow's status conference	0.10 595.00/hr	59.50
	YN	Prepare the proof of service for the Reply to OUST objection to application to employ M. Berger	0.20 250.00/hr	NO CHARGE
	SB	Plan & Prepare for tomorrow's Status Conference by reviewing the Status Report, the docket, the amendments to the Voluntary Petition and Schedules, the Motion to Withdraw, and the responses to the various objections to the law firm's Application to be Employed	0.50 395.00/hr	197.50
6/2/2022	YN	Email Sam the Withdrawal as Counsel	0.10 250.00/hr	NO CHARGE
	CA	Review and revise Response to OSC with Michael Berger's comments.	0.90 435.00/hr	391.50
	CA	Review Sam's emails regarding designation of debtor and Court's OSC. Review Court's OSC. Review LBRs. Draft application and proposed order re designation of debtor's representative.	2.10 435.00/hr	913.50
	CA	Draft Debtor's response to OSC. Review Schedules and filings in debtor's case. Call with client about his declaration and his efforts to prosecute the chapter 11 case.	2.30 435.00/hr	1,000.50

			<u>Hrs/Rate</u>	<u>Amount</u>
6/2/2022	SB	Meeting with Sofya Davtyan regarding preparing for today's Status Conference	0.10 395.00/hr	39.50
	SB	Meeting with Michael Berger regarding the outcome of today's Status Conference	0.10 395.00/hr	39.50
	SB	E-mail with Carolyn Afari about the Order to Show Cause Re Dismissal in this case	0.10 395.00/hr	39.50
	SB	Telephone call and e-mail with Michael Maroyan regarding the outcome of today's Status Conference	0.30 395.00/hr	118.50
	SB	Appear for today's Status Conference	0.60 395.00/hr	237.00
	MJB	Review and approve draft Application for Order Approving Designation of Michael Miroyan as Responsible Individual	0.10 595.00/hr	59.50
	MJB	Conference with Samuel B re what happened at the status conference (.1); Exchange texts with Carolyn Afari re preparing opposition to the Order to Show Cause that the Court will issue (.1) ; Review the Order to Show Cause re Dismissal issued by the Court on June 2, 2022 (.1)	0.20 595.00/hr	119.00
	MJB	Telephone call from client re the Court's Order to Show Cause re working together to oppose same , his search for a real estate broker to sell the property	0.30 595.00/hr	178.50
6/3/2022	MJB	Review and revise draft Application for Order Approving Designation of Michael Miroyan as Responsible Individual Pursuant to Bankruptcy Local Rule 4002-1, review the referenced local rule (.1) ; Review and approve the Proposed Order Thereon, review the email from Carolyn A re both of the above and review the attache sample application and order (.1)	0.20 595.00/hr	119.00
	MJB	Review email from the client re its alleged claim against its lender (.1) ; Review email from the client re his relationship with Harold Barker and review the attached note (.1)	0.20 595.00/hr	119.00
	MJB	Review and revise draft Response to Order to Show Cause re Dismissal, review and revise the draft Declarations of MJB and Michael Miroyan re same	0.20 595.00/hr	119.00
	MJB	Review email from client re breakdown in communication between us, MOR, case status	0.10 595.00/hr	59.50
	MJB	Review email from client re changes to his list of creditors	0.10 595.00/hr	59.50
6/5/2022	MJB	Review email from Samuel B and forwarded email form Wayne Silver re his intent to seek an order converting the case to Chapter 7 or dismissing the Chapter 11 case with prejudice and seeking my	0.20 595.00/hr	119.00

			<u>Hrs/Rate</u>	<u>Amount</u>
		permission to serve documents on Mr. Miroyan directly (.1) ; Prepare reply email to Mr. Silver re same and copy my client re same (.1)		
6/5/2022	MJB	Review and reply to email from Carolyn A and included email from Michael Miroyan re our opposition to the Court's OSC and his draft declaration	0.10 595.00/hr	59.50
6/6/2022	MJB	Telephone conferences with Sofya D and Carolyn A re the client's refusal to sign his declaration and failure to send us a modified version of his declaration, discuss addition to my declaration in opposition to the OSC to cover same	0.10 595.00/hr	59.50
	MJB	Review and reply to 2 emails from client re his draft declaration in opposition to the Court's OSC	0.20 595.00/hr	119.00
	MJB	Review and revise draft Response to OSC and draft Declaration of MJB	0.20 595.00/hr	119.00
6/7/2022	MJB	Review Secured Creditors' Request for Continuance of Hearings on (.1) Order to Show Cause and (2) Debtor's Counsel's Motion to Withdraw (.1) Review Secured Creditor's Motion to Convert to Chapter 7, or in the Alternative, For Dismissal with Refiling Bar, analysis re response thereto (.2) ; Prepare email to the client re the Kai Family 1998 Trust's filings and re choosing between conversion to Chapter 7 or dismissal, if that is the choice that the Court gives the debtor (.2)	0.60 595.00/hr	357.00
	KM	Telephone call with follow up email with the Debtor regarding information on how connect re today's hearing on 4 different matters	0.30 250.00/hr	75.00
	MJB	Review and reply to reply email from Michael Miroyan re the new filings by the Kai Family Trust and re the 2:00 pm hearings today	0.10 595.00/hr	59.50
	MJB	Prepare my Oral Argument for the OSC (.2) Appear by Zoom Video Conference and represent the debtor at hearings on 4 matters: (a) The Continued Status Conference; (b) Hearing on Motion to Withdraw as Counsel; (c) Hearing on Application to Employ MJB and (d) OSC Re Dismissal (.8) Calendar the continued status conference and OSC Date and prepare email to the client re all of the above (.2)	1.20 595.00/hr	714.00
6/8/2022	MJB	Prepare email to the client re all upcoming deadlines in the case	0.10 595.00/hr	59.50
SUBTOTAL:			[38.10]	16,356.50]
For professional services rendered			38.10	\$16,356.50

EXHIBIT 3

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Professional Services

			Hrs/Rate	Amount
<u>Claims Administration and Objections</u>				
4/26/2022	YN	Discuss with K. Manvelian re court call re claims bar date and review docket #4 per court's instruction	0.20 250.00/hr	NO CHARGE
5/13/2022	MJB	Prepare email to the client re possible amendments to the debtors bankruptcy schedules (.2) ; Telephone call from the client re same (.1) ; Review and reply to 2 emails from the client re same (.2)	0.50 595.00/hr	297.50
5/17/2022	MJB	Review Proof of Claim and Amended Proof of Claim filed by the UST (.1) ; Prepare email to the debtor re same (.1)	0.20 595.00/hr	119.00
5/22/2022	SD	Review POC #2 by Franchise Tax Board	0.10 545.00/hr	54.50
SUBTOTAL:			1.00	471.00
For professional services rendered			1.00	\$471.00

EXHIBIT 4

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
<u>Fee/Employment Applications</u>				
4/27/2022	CA	Discuss MJB Employment Application with Sofya	0.10 435.00/hr	43.50
	CA	Begin drafting MJB Employment Application	0.90 435.00/hr	391.50
4/29/2022	CA	Continue working on MJB Employment Application and finalize.	1.60 435.00/hr	696.00
5/4/2022	MJB	Review and approve draft Disclosure of Compensation, Notice of Opportunity for Hearing on the Application for Order Authorizing Debtor to Employ General Bankruptcy Counsel and Application to Employ MJB as General Bankruptcy Counsel and review and approve the application and all papers in support thereof	0.20 595.00/hr	119.00
	SD	Review and revise the Application to Employ General Bankruptcy Counsel	0.80 545.00/hr	436.00
5/9/2022	YN	Send follow up email re M. Berger's Application to Employ	0.10 250.00/hr	NO CHARGE
	YN	Make revisions to the Application to Employ M. Berger re revision for client's non-cooperation	0.20 250.00/hr	50.00
	MJB	Exchange texts with the client re the Application to Employ MJB as General Bankruptcy Counsel for the Debtor (.1) ; Telephone conference with client re same and re the Initial Debtor Interview and the meeting of creditors	0.10 595.00/hr	59.50

			<u>Hrs/Rate</u>	<u>Amount</u>
5/18/2022	SD	Review Creditor's Objection to Employment Application and Request for a Hearing	0.10 545.00/hr	54.50
	MJB	Review Objection To Application For Order Authorizing Debtor To Employ General Bankruptcy Counsel And Request For Hearing	0.10 595.00/hr	59.50
5/23/2022	YN	Prepare the Notice of Hearing for the Employment Application of M. Berger	0.20 250.00/hr	50.00
5/25/2022	CA	Draft Reply to Kai Opposition to MJB Employment Application and review Opposition.	1.00 435.00/hr	435.00
5/27/2022	MJB	Conference with Sofya D re our reply in support of our application to be employed as counsel	0.10 595.00/hr	59.50
5/31/2022	MJB	Review and revise draft Reply to Kai Family 1998 Trust Objection to Application to Employ MJB as General Bankruptcy Counsel for the Debtor	0.10 595.00/hr	59.50
	SD	Review Debtor's Reply to Kai Family Trust's opposition to Employment Application	0.10 545.00/hr	54.50
6/1/2022	MJB	Review United States Trustee's Objection And Reservation Of Rights With Respect To The Application To Employ The Law Offices Of Michael Jay Berger and analysis re response thereto	0.90 595.00/hr	535.50
	MJB	Review and revise draft Reply to UST's Objection to Application to Employ MJB as General Bankruptcy Counsel for the Debtor	0.20 595.00/hr	119.00
	CA	Draft Reply to UST's Objection to MJB Employment Application.	2.90 435.00/hr	1,261.50
6/2/2022	YN	Communicate with P. Garza re the service list for the Reply to OUST objection to Application to Employ M. Berger as Counsel	0.20 250.00/hr	NO CHARGE
	YN	Email C. Afari supporting documents for Reply to OSC	0.20 250.00/hr	NO CHARGE
6/3/2022	YN	Update the revised order	0.10 250.00/hr	NO CHARGE
6/6/2022	MJB	Review email from the debtor re the source of the \$10,000.00 payment made to me on behalf of the debtor	0.10 595.00/hr	59.50
	MJB	Review draft declaration of Harold Barker re source of payment to MJB for the debtor's Ch 11 and review 2 emails from the client re same (.1); Prepare reply email re same; (.10) Review 2 follow up emails from Michael Miroyan re errors in the draft declaration of Harold Barker and re contact information for Mr. Barker (.2)	0.40 595.00/hr	238.00

			Hrs/Rate	Amount
6/8/2022	MJB	Review Declaration of Harold Barker Filed by Interested Party Harold Barker (.1); Review Declaration From Michael Miroyan Filed by Debtor Hawaiian Riverbend (.1) both declarations include information re the funds used to retain debtor's counsel	0.20 595.00/hr	119.00
SUBTOTAL:			[10.90	4,900.50]
For professional services rendered			10.90	\$4,900.50

EXHIBIT 5

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Professional Services

			Hrs/Rate	Amount
<u>Meeting of Creditors</u>				
4/27/2022	SD	Review the amended Notice of Meeting of Creditors and update the deadlines (0.1); email a copy to client with instructions (0.1)	0.20 545.00/hr	109.00
5/11/2022	SB	Telephone call with Michael Berger regarding the upcoming Meeting of Creditors in this case	0.10 395.00/hr	39.50
	MJB	Telephone call from the SubChapter V Trustee re the meeting of creditors and re what happened at the IDI	0.10 595.00/hr	59.50
	MJB	Prepare Samuel B for the Meeting of Creditors	0.10 595.00/hr	59.50
5/13/2022	MJB	Review and reply to email from UST Trial Attorney Evlina Rofael re the Meeting of Creditors and the call that she received from Mr. Miroyan re same (.1); Prepare email to Michael Miroyan re same (.1) ; Review email from the client re same (.1) Draft a detailed email to the client re what to expect at the meeting of creditors and how to prepare for the meeting (.5) Respond to multiple texts from the client re same (.1) ; Review and reply to follow up email re documents that the client should have with him at the time of the meeting of creditors and send the client another copy of the bankruptcy petition and schedules of the debtor (.1)	1.00 595.00/hr	595.00
5/16/2022	MJB	Conference with Samuel B to further prepare him for the meeting of creditors tomorrow	0.10 595.00/hr	59.50
5/17/2022	MJB	Exchange texts with Samuel B re the meeting of creditors (.1) ; Telephone conference with Samuel B re same (.1)	0.20 595.00/hr	119.00

			Hrs/Rate	Amount
5/17/2022	SB	Text messages between Michael Berger and Sofya Davtyan regarding the issues arising during today's Meeting of Creditors	0.10 395.00/hr	39.50
	SB	Telephone call with Michael Berger regarding the outcome of today's meeting of creditors	0.10 395.00/hr	39.50
	SB	E-mail with Michael Berger and Sofya Davtyan itemizing what issues transpired during today's Meeting of Creditors	0.20 395.00/hr	79.00
	SB	Appear for today's Meeting of Creditors	1.10 395.00/hr	434.50
5/18/2022	MJB	Review Notice of Continued Meeting of Creditors, be sure that the new date is on calendar,	0.10 595.00/hr	59.50
SUBTOTAL:			[3.40]	1,693.00]
For professional services rendered			3.40	\$1,693.00

EXHIBIT 6

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Professional Services

			Hrs/Rate	Amount
<u>Relief From Stay Proceedings</u>				
5/11/2022	MJB	Review email from the client re the Memorandum Decision in the Moon case and review the attached memorandum	0.30 595.00/hr	178.50
5/12/2022	MJB	Prepare email to the client re my analysis of the Moon case and of the client's claim re violation of the automatic stay	0.20 595.00/hr	119.00
5/15/2022	MJB	Review reply email from the client with his analysis of the Moon case on Stay Violation issues	0.10 595.00/hr	59.50
SUBTOTAL:			[0.60]	357.00]
For professional services rendered			0.60	\$357.00

EXHIBIT 7

TIME BILLED BY PROFESSIONAL

PROFESSIONAL	TYPE	HOURS BILLED	HOURS NOT	HOURLY RATE	TOTAL FEES
Michael Jay Berger	Attorney	20.7	0.2	\$595.00/hour	\$ 12,316.50
Sofya Davtyan	Attorney	5.2	0.2	\$525.00/hour	\$ 2,834.00
Carolyn Afari	Attorney	11.8	0.7	\$435.00/hour	\$ 5,133.00
Robert Poteete	Attorney	0.4	0	\$435.00/hour	\$ 174.00
Sam Boyamian	Attorney	3.4	0	\$395.00/hour	\$ 1,343.00
Yathida Nipha	Paralegal	7.6	3	\$225.00/hour	\$ 1,900.00
Karine Manvelian	Paralegal	1.9	0.4	\$225.00/hour	\$ 475.00
TOTAL		51	4.5		\$24,175.50

EXHIBIT 8

Law Offices of Michael Jay Berger
9454 Wilshire Blvd. 6th Floor
Beverly Hills, CA 90212-2929

Invoice submitted to:
Hawaiian Riverbend, LLC Chapter 11
Michael Miroyan, Managing Member
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032

August 17, 2022

Invoice #1064

Additional Charges :

	<u>Amount</u>
4/21/2022 Postage, mailing and related expenses for Order Setting Status Conference, Claims Bar Date	6.68
4/22/2022 Postage, mailing and related expenses for Statement Pursuant to 11 U.S.C. 1116	6.15
4/25/2022 USBC fee for a certified copy of the debtor's bankruptcy petition	15.00
5/10/2022 Judge's copy of the Application to Employ M. Berger and Motion to Withdraw M. Berger	11.48
5/11/2022 Postage and Mailing related expenses for Motion to Withdraw as Counsel Postage and mailing related expenses Application to Employ Michael Jay Berger	24.44 69.03
5/19/2022 Judge's copy of the Status Report and Certificate of Service Judge's copy of the Status Report and Certificate of Service	1.00 11.50
5/20/2022 Postage and mailing related expenses for Debtor's Initial Status Report and Certificate of Service	16.64
5/25/2022 Postage and mailing related expenses for Notice of Hearing on Application to Employ Michael Jay Berger	13.28
5/27/2022 Amendment Fee for E/F	32.00
6/1/2022 Overnight delivery of documents to the Judge	11.50
6/2/2022 15 pages for 24 mailings Reply to UST's objection to application for order authorizing debtor to employ general bankruptcy counsel	36.00

	<u>Amount</u>
6/2/2022 27 mailings at .53 each Reply to UST's objection to application for order authorizing debtor to employ general bankruptcy counsel	19.71
Judge's copy sent ups Reply to UST's objection to application for order authorizing debtor to employ general bankruptcy counsel	11.50
6/7/2022 2 pages for 26 mailings Response to order to show cause re dismissal	3.20
26 mailings at .53 each Response to order to show cause re dismissal	13.78
Judge's copy sent ups Response to order to show cause re dismissal	11.50
Total additional charges	\$314.39

EXHIBIT 9

MICHAEL JAY BERGER

9454 Wilshire Boulevard, 6th Floor, Beverly Hills, California 90212

Telephone: 310.271.6223 | Fax: 310.271.9805 | E: michael.berger@bankruptcypower.com

Website: www.bankruptcypower.com

EDUCATION

Certified Legal Specialist in Bankruptcy Law certified by the California Board of Legal Specialization of the State Bar of California

Certified on September 1, 2006 and continuously certified since then.

Law School – HASTINGS COLLEGE OF LAW, San Francisco, California

J.D. with Honors, May 1981;

Class Standing: Top 10%

Main Honors and Activities

Order of the Coif

Law Review

Thurston Honor Society

Phi Alpha Delta

Undergraduate – DUKE UNIVERSITY, Durham, North Carolina

B.A. Graduated with Honors, 1978 Major: English

Main Honors and Activities

Captain of the Duke Debate Team

Chairman, Duke Branch of the North Carolina Public Interest Research Group

Member, National Honorary Society

Delta Sigma Rho Tau Kappa Alpha

WORK EXPERIENCE

40 years of experience representing accountants, actors, advertising agencies, ambulance companies, bail bond companies, book stores, car washes, churches and synagogues, clothing companies, construction companies, construction supply companies, contractors, cosmetic companies, dentists, designers, doctors, entrepreneurs, film companies, gas stations, hospitals, hotels, insurance agencies, insurance sales people, investors, landlords and tenants, landscape companies, lawyers, lenders, magazines, manufacturing companies, musicians, nightclubs, online sales companies, pawn shops, physical therapists, radio stations, real estate brokers, real estate developers, real estate investors, restaurants, retail stores, schools, screenwriters, security guard companies, shopping centers, song writers, stock brokers, students, teachers, television stations, trucking companies and veterinarians.

1996 to Now LAW OFFICES OF MICHAEL JAY BERGER
Beverly Hills, California
Principal attorney in law firm specializing in bankruptcy practice.
Extensive experience representing debtors, creditors and third parties in Chapter 7, 11 and 13 Cases and Adversary Proceedings

1983 to 1996 Attorney and Managing Partner, BERGER & STOLAR, INC.
Beverly Hills, California
Senior trial lawyer specializing in bankruptcy and civil litigation practice.
Very knowledgeable and experienced in all types of civil litigation, including all types of collection, business, contract, entertainment, real estate, probate and bankruptcy cases. Extensive experience representing debtors and creditors in numerous Chapter 7, 11 and 13 proceedings.

1981 to 1983 Attorney, RIFKIND, STERLING & LEVIN, INC.
Beverly Hills, California
Practiced in all phases of civil litigation. Primarily responsible for collection, bankruptcy, breach of contract, real estate and tort cases.

ACTIVITIES AND ASSOCIATIONS

"AV" rated lawyer as rated by Martindale Hubbell legal directory 1995-2021*

"Superb Rated Attorney" By Avvo
Former Judge Pro Tem, Beverly Hills Municipal Court
Former Arbitrator, Beverly Hills Bar Association
Former Editor of the Beverly Hills Bar Association Journal
Member of the Bankruptcy Section of the Beverly Hills Bar Association
Member of the Los Angeles Bankruptcy Forum
Member of the California Bankruptcy Forum
Member of the American Bankruptcy Institute
Member of Mensa, The High IQ Society
Member of Track Club Los Angeles
Marathon and Ultramarathon Runner
Guitar Player and Lead Singer for the Rock and Roll Band DTF

AREA SERVED

I serve all of California, with the majority of my cases being in the Central District of California downtown Los Angeles, San Fernando Valley, Santa Ana and Riverside branch courts.

EXHIBIT 10

LAW OFFICES OF MICHAEL JAY BERGER

9454 Wilshire Blvd., 6th Floor
Beverly Hills, California 90212
Tel: 310-271-6223 | Fax: 310-271-0985

LAW OFFICES OF MICHAEL J. BERGER (the “Firm”) limits its practice to the field of bankruptcy, insolvency, workouts and related civil litigation and transactional matters. The Firm’s legal representation, involves extensive involvement with consumers and businesses, as Debtors and Debtors-in-Possession in chapter 7, 11 and 13 Bankruptcies.

DESCRIPTION OF RESPONSIBILITIES OF BANKRUPTCY ATTORNEYS

The Firm’s Bankruptcy Department currently employs four full-time attorneys whose duties include, but are not limited to, attendance at the client’s initial debtor interview, 341(a) meeting of creditors and confirmation hearing. The Firm’s attorneys also prepare petitions, schedules and other documents that are critical to the success of each case.

The attorneys, under the supervision of the Firm’s principal attorney, Michael Jay Berger, are responsible for the research, preparation and filing of applications, motions and other documents throughout the course of a client’s bankruptcy. More specifically, the attorneys draft applications to employ professionals and applications for attorney compensation, as well as budget motions, motions for the interim use of cash collateral, motions to value and Chapter 11 and 13 plans of reorganization and disclosure statements.

The Firm’s attorneys also ensure compliance with the Bankruptcy Code and Local Bankruptcy Rules. The attorneys are often required to prepare and file: applications for orders shortening time, motions for authorization to incur debt, applications for removal of civil actions, amendments to schedules, final reports, orders, judgments-findings of fact and conclusions of law, applications for final decrees closing Chapter 11 cases, statements of indebtedness and declarations in adversary proceedings, collection complaints, notices of appeals, and proofs of claim.

Immediately following is a brief description of the qualifications of the Firm’s Attorneys.

Michael Jay Berger – Principal Attorney, admitted to the State Bar of California, 1981; Central District of California, 1982. Mr. Berger is a Certified Legal Specialist in Bankruptcy Law certified by the California Board of Legal Specialization of the State Bar of California.

University of California Hastings, San Francisco, CA (1981)
Duke University, Durham, NC (1978).

Sofya Davtyan – Partner: Admitted to the State Bar of California, 2008; Central District of California, 2008. Ms. Davtyan joined the firm in February of 2009. Ms. Davtyan is a Certified Specialist in Bankruptcy Law, Certified by the California Board of Legal Specialization.

Ventura College of Law, Ventura, CA (2008)
University of Southern California, Los Angeles, CA (2002)

Debra J. Reed – Mid-Level Associate: Admitted to the State Bar of California, 2010; Central District of California, 2020. Ms. Reed joined the firm in 2020.

Santa Clara University School of Law, Santa Clara, CA • Juris Doctor (2009)
Baruch College, New York, NY • Masters of Business Administration (2000)
Boston College, Boston MA • Bachelor of Arts (1986)

Carolyn M. Afari – Mid-Level Associate: Admitted to the State Bar of California, 2012; Central District of California, 2012. Ms. Afari joined the firm in June of 2017.

University of West Los Angeles School of Law, Los Angeles, CA (2011)
University of Southern California, Los Angeles, CA (2005)

Robert Poteete – Mid-Level Associate: Admitted to the State Bar of California, 2007; Central District of California, 2008. Mr. Poteete joined the firm in 2022.

UCLA School of Law, Los Angeles, CA (2006)
University of Pennsylvania, Philadelphia, PA (2003)

DESCRIPTION OF RESPONSIBILITIES OF PARALEGALS & LEGAL ASSISTANTS

The Firm's Bankruptcy Department currently employs four full-time paralegals and legal assistants whose duties include, but are not limited to, the following:

Attendance at initial attorney/client meetings, preparation of petitions, schedules, statement of affairs and rendering assistance to client in meeting the requirements of the United States Trustee.

After filing of the petition, the Paralegals, under the supervision of the attorneys, prepare drafts of motions, applications and other documents, including, but not limited to the following:

Application for authorization to employ professional persons, applications for compensation of attorneys' fees, motions to compromise controversies, stipulations, motions for extension of time for the debtor to file schedules, motions for extension of exclusivity periods [Bankruptcy Code §1121], motions for extension of the time in which the debtor may assume or reject nonresidential real property leases, motions for authorization to sell assets of the debtor's estate, applications for orders shortening time for serving notices to creditors, motions for authorization to incur debt, applications for removal of civil actions, amendments to schedules, final reports and account [Bankruptcy Rule 1019 (6)], notices as required by the Bankruptcy Rules, orders, judgments-findings of fact and

conclusions of law, applications for final decrees closing Chapter 11 cases, final decrees, statements of indebtedness and declarations in adversary proceedings, collection complaints, notices of appeals, proofs of claims, and any other documents which may appropriately be drafted at the legal assistant level.

Immediately following is a brief description of the qualifications of the Firm's Paralegals and Legal Assistants.

Gary Baddin (Bankruptcy Analyst / Field Agent)

Mr. Baddin joined the firm in June 2021. In 1987, he joined the elite Special Procedures Staff of the IRS, administering the Service's tax claims in the U. S. Bankruptcy Court. He worked for the Office of the United States Trustee in the U.S. Department of Justice as a Bankruptcy Analyst for 30 years and was assigned oversite of chapter 11 cases. Mr. Baddin received his Bachelor's Degree in Political Science from UC Davis and holds a Master's Degree in Public Administration from USC.

Yathida Nipha (Senior Paralegal): Ms. Nipha is a senior paralegal with over twelve years of experience in Chapters 7, 11 and 13. Ms. Nipha joined the firm in January 2010.

University of Phoenix, Los Angeles, CA (2008)

Karine Manvelian (Senior Paralegal): Mrs. Manvelian joined the firm in 2014 and has returned in December 2015. Mrs. Manvelian worked with the United States Bankruptcy Court for over 20 years.

Peter Garza (Paralegal): Mr. Garza joined the firm in May 2015. Prior to joining the firm, Mr. Garza was a customer service supervisor with Williams Lea, Inc. at O'Melveny & Myers for 15 years. Mr. Garza prepares declarations of service and Applications to Employ Professionals. Mr. Garza has experience preparing bankruptcy schedules in chapter 7, 11, and 13.

EXHIBIT 11

1 MICHAEL JAY BERGER (State Bar # 100291)
2 LAW OFFICES OF MICHAEL JAY BERGER
3 9454 Wilshire Boulevard, 6th Floor
4 Beverly Hills, California 90212
5 T: 1.310.271.6223 | F: 1.310.271.9805
6 E: michael.berger@bankruptcypower.com

7 Former Counsel for Debtor,
8 Hawaiian Riverbend, LLC

9
10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 In re:

14 Hawaiian Riverbend, LLC

15 Debtor.

16) CASE NO.: 22-bk-50314
17) Chapter 11
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1 ("Applicant") shall, and does hereby, move the Court for an Order Approving his First and
2 Final Fee Application for his fees as Debtor's General Bankruptcy Counsel.

3 This Application is made on behalf of the Applicant, pursuant to 11 U.S.C. §§ 330
4 and 331, for allowance of fees and costs as follows:

Professional	Period	Fees	Costs
Michael Jay Berger	4/15/2022 – 6/8/2022	\$24,175.50	\$314.39

7 The Application is based upon this Notice of Application, the separately filed
8 Application, the declarations, all pleadings and records on file in this case, and upon such
9 other evidentiary matters as may be presented to the Court regarding the Application. If
10 you desire a copy of the Application, please advise Applicant in writing and a copy will be
11 provided to you by mail or email. Requests should be sent to:

12 **MICHAEL JAY BERGER**
13 **LAW OFFICES OF MICHAEL JAY BERGER**
14 **9454 Wilshire Boulevard, 6th Floor**
15 **Beverly Hills, California 90212**
16 **T: 1.310.271.6223**
17 **E: michael.berger@bankruptcypower.com**

18 PLEASE TAKE FURTHER NOTICE that pursuant to *Bankruptcy Local Rule*
19 *2002-1*, Applicant, the initiating party is giving notice for Applicants' Application for
Compensation.

20 PLEASE TAKE FURTHER NOTICE that pursuant to *Bankruptcy Local Rule*
21 *9013-1*, any party opposing the relief sought by the Application must file a written
22 opposition setting forth the facts and law upon which the opposition is based and must
23 appear at the hearing on the Application. Any factual allegations set forth in such written
24 response must be supported by competent and admissible evidence. Any response or
25 opposition to the Application must be filed with the Court and served on the Debtors'
26 counsel at least 14 days prior to the scheduled hearing date on the Application (not
27 excluding Saturdays, Sundays or legal holidays). Such responses, if any, must be served

1 on the Debtors' counsel at the address noted in upper left-hand corner of the first page of
2 this notice.

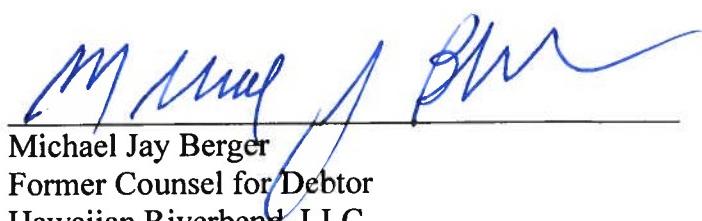
3 PLEASE TAKE FURTHER NOTICE that pursuant to *Bankruptcy Local Rule*
4 9014-1, Applicant's Application for Compensation has been set for an actual hearing as
5 detailed in the above caption.

6 WHEREFORE, the Applicant respectfully requests that the Court enter its order
7 approving the fees described herein and granting such other and further relief as is just and
8 proper under the circumstances.

9
10 Dated: 8/23/2022 LAW OFFICES OF MICHAEL JAY BERGER

11
12 By:

13 Michael Jay Berger
14 Former Counsel for Debtor
Hawaiian Riverbend, LLC



28

3

NOTICE OF HEARING OF FIRST AND FINAL APPLICATION FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES OF MICHAEL JAY BERGER

EXHIBIT 12

Law Offices of Michael Jay Berger
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**Michael Jay Berger is a California State Bar
Certified Bankruptcy Law Specialist**

**Sofya Davtyan is a California State Bar
Certified Bankruptcy Law Specialist**

**Debra J. Reed
Carolyn Afari
Samuel Boyamian**

August 25, 2022

Attn: Michael Miroyan, managing member of
Hawaiian Riverbend, LLC
620 Vasona Avenue
Los Gatos, CA 95032
Via email: mac8881@me.com

Re: Letter Regarding Applicant Michael Jay Berger's First Fee
Application to Debtor Pursuant to Northern District of
California Guidelines for Compensation and Expense
Reimbursement of Professional Trustees ("NDCA
Guidelines")

Dear Michael Miroyan, managing member of Hawaiian Riverbend, LLC,

Pursuant to Northern District of California Guidelines for Compensation and Expense Reimbursement of Professional Trustees ("NDCA Guidelines"), attached is the First Fee Application for Applicant Michael Jay Berger for his professional services as General Bankruptcy Counsel in your Chapter 11 Bankruptcy case. This letter serves to provide you a review of my billing statement as follows:

"The Court's Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees provide that a debtor in possession, a trustee or an official committee must exercise reasonable business judgment in monitoring the fees and expenses of the estate's professionals. We invite you to discuss any objections, concerns or questions you may have with us. The Office of the United States Trustee will also accept your comments. The court will also consider timely filed objections by any party in interest at the time of the hearing."

Sincerely,

Michael Jay Berger